

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**GENE WINDHAM, individually, and
as the personal representative of the
Estate of LILLIE MAE WINDHAM,
deceased,**

Plaintiff,

vs.

**HUDDLE HOUSE, INC., a foreign
corporation; HUDDLE HOUSE #389 &
482, a domestic corporation; GWYNNE
STRAUGHN, an individual; FRANCIS and
WYATT SASSER, individuals,**

Defendants.

CASE NO. 2:08CV007

REPLY TO OPPOSITION TO MOTION TO REMAND

COMES NOW the Plaintiff and in Reply to the Opposition to Motion to Remand says as follows:

1. The arguments the Defendant raises fail to address the only issue that applies to the current analysis: whether there is no possibility that the Plaintiff can recover against the non-diverse Defendant on the theories raised. The claims raised against the original non-diverse defendant, Gwynne Straughn, are recognized by Alabama law; and whether the facts support *recovery* on those theories is an issue best determined at summary judgment. At this stage, however, the Defendant has failed to offer, as it is their burden to do, evidence sufficient to satisfy this prong of the applicable test.

/s/Thomas B. Albritton
Thomas B. Albritton (ALB009)
Attorney for Plaintiffs

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing upon all counsel of record in this cause by electronic service if registered, and if not, by regular U.S. Mail, postage prepaid and addressed as follows, on this, the 1st day of February, 2008:

Mr. John M. Peek
416 South Three Notch Street
Andalusia, AL 36420

/s/Thomas B. Albritton
Of Counsel